

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1832.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 20 Session 1

**An Act to regulate the Service of Writs of *Scire Facias*. Passed 9th March 1832.**

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, That the proceeding by Two *Nihils* returned, and also that of summoning by Summoners, on Writs of *Scire Facias*, shall be abolished.

II. And be it enacted, That Writs of *Scire Facias* may be directed to the Sheriff of any County within the Province, whether or not it be the County in which the Court sits, or in which the Venue is laid, and may be served in any County although directed to the Sheriff of another County.

III. And be it enacted, That when the Defendant or Defendants in Write of *Scire Facias* can be found within the Province, or have a known Place of Abode therein, each Writs shall be served by delivering a Copy of the Writ to each Defendant, or leaving such Copy at the Defendant's Place of Abode with the Wife, or an adult Member of the Family, or a Person having the Care of the House, of such Defendant; which Service shall be proved by Affidavit made and filed: Provided that in Cases where the Service is not personal, it shall not be deemed good Service without the Order of the Court, or a Judge of the Court, from which the Writ has issued, upon reading the Affidavit of Service.

IV. And be it enacted, That when any Defendant cannot be found within the Province, and has not a known Place of Abode therein, Writs of *Scire facias* may be served by delivering a Copy of the Writ to any known Agent of such Defendant, or to any Person having charge of any Property, real or personal, of such Defendant, or being jointly interested in any Property, real or personal, of such Defendant, within the Province; and such Service shall be deemed good Service when so ordered by the Court, or a Judge of the Court, from which the Writ has issued, upon Affidavit of such Service, and upon its being also made to appear upon Affidavit to the Satisfaction of such Court or Judge that the Defendant cannot be found, and has no known Place of Abode within the Province.

V. And be it enacted, That good service of Writs of *Scire Facias*, according to the Provisions of this Act, shall in all Cases be equivalent to a Return of *Scire Feci* by the Sheriff as heretofore practised.

VI. And be it enacted; That when it shall be made to appear upon Affidavit to the Satisfaction of the Court or a Judge of the Court from which a Writ of *Scire Facias* may have issued, that such Writ cannot be served in any of the Modes herein before specified for that Purpose, such Court or Judge shall, after the Return and Filing of the Writ, direct a Rule to be entered requiring any Defendant as to whom such Service cannot be made to appear to such Writ within Twenty Days after the last Publication of such Rule in One or more Newspapers published in such Parts of the Province as such Court or Judge shall direct; and a Copy of such Rule, certified by the Clerk of the

Court, shall be published in such Newspaper or Newspapers for Four Weeks successively; and if an Appearance to the *Scire Facias* shall not be duly entered for such Defendant within the said Twenty Days, such Proceedings may be had as in the Case of Default of Appearance after due Service of the Writ; Affidavit of the due Publication of such Rule according, to the Tenor hereof being First made and filed.

VII. And be it enacted, That the Fourth Section of an Act made and passed in the Eighth Year of the Reign of His Majesty King George the Fourth, intituled *An Act for the more easy Assessment of Damages on Bonds payable by Instalments and other similar Instruments and for the more convenient Service of Writs of Scire Facias*, be and the same is hereby repealed.

VIII. And be it enacted That this Act shall commence and take effect on the First Day of May in the present Year.